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Attorneys for Defendants
 SANTA CLARA COUNTY DISTRICT
 ATTORNEY GEORGE KENNEDY and
 ANN MILLER RAVEL, in their Official
 Capacities

UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

VIDEO SOFTWARE DEALERS)
 ASSOCIATION and ENTERTAINMENT)
 SOFTWARE ASSOCIATION,)

Plaintiffs,)

v.)

ARNOLD SCHWARZENEGGER, in his)
 official capacity as Governor of the State)
 of California; BILL LOCKYER, in his)
 official capacity as Attorney General of)
 the State of California; GEORGE)
 KENNEDY, in his official capacity as)
 Santa Clara County District Attorney,)
 RICHARD DOYLE, in his official)
 capacity as City Attorney for the City of)
 San Jose, and ANN MILLER RAVEL, in)
 her official capacity as County Counsel)
 for the County of Santa Clara,)

Defendants.)

No. C05-4188 RMW (RS)

**EX PARTE MOTION TO CONTINUE
 HEARING ON PRELIMINARY
 INJUNCTION; DECLARATION OF
 KATHRYN ZOGLIN; PROPOSED ORDER**

Crtrm.: 6
 Judge: Honorable Ronald M. Whyte

I.

INTRODUCTION

The hearing for the preliminary injunction in this action has been set for December 2, 2005. Defendants Santa Clara County District Attorney George Kennedy and Santa Clara County Counsel Ann Ravel ("County defendants") have been sued in their official capacities.

1 The County defendants request that the hearing date be continued one week to December 9,
2 2005, because their counsel is unavailable on December 2, 2005. Local Rule 7-10.

3 II.

4 DISCUSSION

5 On October 7, 2005, Governor Schwarzenegger signed AB 1179 into law, which restricts
6 the sale of a narrow set of violent videotapes to minors. The law will go into effect on January
7 1, 2006. On October 17, 2005, plaintiffs Video Software Dealers Association and
8 Entertainment Software Association (“plaintiffs”) filed a complaint for declaratory and
9 injunctive relief. Plaintiffs named the following individuals, acting in their official capacity, as
10 defendants: Governor Arnold Schwarzenegger, Attorney General Bill Lockyer, San Jose City
11 Attorney Richard Doyle, Santa Clara County District Attorney George Kennedy, and Santa
12 Clara County Counsel Ann Miller Ravel. The hearing date for plaintiffs’ request for a
13 preliminary injunction has been set for December 2, 2005.

14 Deputy County Counsel Kathryn Zoglin has been assigned to write the brief opposing the
15 preliminary injunction and to appear at the hearing on behalf of the County defendants. She is
16 handling this matter because there is no one available on the Litigation Team to handle it. Ms.
17 Zoglin is not available on December 2, 2005. She is handling a labor arbitration matter that was
18 set in June 2005 and cannot be continued. The arbitration will likely last the entire day. She is
19 available on December 9, 2005.

20 Deputy Attorney General Zackery Morazzini, who represents Governor Schwarzenegger
21 and Attorney General Lockyer; and Deputy City Attorney Fabela, who represents San Jose City
22 Attorney Doyle, are available on December 9, 2005, for the hearing on the preliminary
23 injunction. Plaintiffs state that they oppose a hearing on that date. They have not indicated they
24 are not available that date. Rather, plaintiffs oppose a later hearing date because the law at issue
25 will go into effect on January 1, 2006, if a preliminary injunction is not issued.

26 The County defendants respectfully request that the hearing date for the preliminary
27 injunction be continued one week, based on the unavailability of counsel. Local Rule 7-10.
28 The County defendants request that the hearing on the preliminary injunction be continued to

1 plaintiffs, to advise them that I am not available on December 2, 2005 for the hearing on the
2 preliminary injunction.

3 4. Counsel for the defendants are available for hearing on the following Friday, on
4 December 9, 2005. They have no opposition to my request that the matter be continued one
5 week.

6 5. Mr. Dettmer advised me that his clients oppose a hearing on December 9, 2005. Mr.
7 Dettmer did not indicate that plaintiffs' counsel are not available on December 9, 2005. Rather,
8 he stated that his clients oppose that date because the law at issue will go into effect on January
9 1, 2006, if a preliminary injunction is not issued.

10 6. I request that defendants' opposition briefs be due on November 18, 2005.
11 Currently, defendants' opposition briefs are due on Thursday, November 10, 2005, because
12 Friday, November 11, 2005, is a holiday. Plaintiffs' motion for preliminary injunction presents
13 complicated First Amendment issues. In addition to their pleadings, plaintiffs have submitted
14 nine declarations as well as videos.

15 I declare under penalty of perjury under the laws of the State of California that the
16 foregoing is true and correct, and that this declaration was executed at San Jose, California, on
17 November 7, 2005.

18 /S/
19 KATHRYN J. ZOGLIN

20 ORDER

21 GOOD CAUSE APPEARING, IT IS HEREBY ORDERED:

22 The hearing on the preliminary injunction is continued to December 9, 2005, at 9:00 a.m.;

23 Defendants' opposition briefs are due on or before November 18, 2005; and

24 Plaintiffs' reply brief, if any, is due on or before November 25, 2005.

25 Dated: _____

26 HONORABLE RONALD M. WHYTE
27 United States District Court Judge

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